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Debtor and Debtor-In-Possession

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re:

TV-32 DIGITAL VENTURES, INC., a
California Corporation,
Tax ID: 20-1198608
Debtor.

Case No. 09-58098 ASW 11

Chapter 11

**DECLARATION OF BOOKER T. WADE
IN REPLY TO OBJECTION TO
DISCLOSURE STATEMENT FILED BY
STERLING SAVINGS BANK**

Date: February 5, 2010
Time: 2:00 p.m.
Place: Courtroom 3020
280 South First Street
San Jose, CA 95113-3099
Judge Arthur S. Weissbrodt

I, Booker T. Wade, declare:

1) I am informed and believe and thereon state that I am the sole shareholder and officer of TV-32 Digital Ventures, Inc., a California Corporation ("Debtor"), debtor and debtor-in-possession. I have personal knowledge of the facts contained in this declaration, and if called as a witness, could and would competently testify as to them. I make this declaration in reply to Sterling Savings Bank's Objection to Debtor's Disclosure Statement.

2) The Debtor has filed an amended plan and disclosure statement whose goal is to obtain time to lease up, market or refinance the Real Property to pay off its secured debt and to

1 protect Stevens' exposure on her personal guarantees to the holders of the 1st and 2nd deeds of
2 trust against the Real Property.

3 3) Sterling Savings Bank has objected to the Debtor's Disclosure Statement
4 suggesting that it lacks sufficient information concerning the "Means for the Plan's Execution."
5 In reply thereto, the Debtor proposes the following additions to that section of the Disclosure
6 Statement:

7 The backdrop of the Plan is the factual premise supported by Sterling's own appraisal of
8 the Real Property in the amount of \$4.3 million,¹ that there is not only equity to cover Sterling's
9 secured claim (Sterling's secured claim is admitted to be approximately \$2.1 million – Docket
10 No. 43, 1:21-23; Docket No. 25-1, ¶2), but also to cover the second deed of trust (scheduled by
11 the Debtor at approximately \$1.65 million) and the Debtor's interest therein.

12 The Debtor has attempted but has so far been unsuccessful in efforts to lease the building
13 to a greater capacity. In April 2008, Debtor executed a leasing Listing Agreement with Greg
14 DeLong of CB Richard Ellis Brokerage Services of Palo Alto. Mr. DeLong designed and
15 implemented a marketing plan. The property was listed on multiple services. Availability and
16 brochures were provided to multiple brokers and online. Prospective tenants were solicited
17 locally and nationally. All or portions of the property were offered for lease. Approximately 15
18 prospective tenants were given tours and several were given follow-up tours. Lease rates were
19 calibrated to market conditions. About four prospective tenants contemplated offers but various
20 technical or space configuration, plug-and-play issues or other factors proved to be
21 insurmountable hurdles.

22 One prospective tenant, Vendavo Inc., made a formal offer to lease all of the available
23 space. That proposal, as described in the Wade Declaration, was, effectively, rejected by Arlene
24 Stevens.² A subsequent proposal by Link TV which, if accepted would have provided revenues
25 sufficient to pay all secured debt service was, similarly, rejected by Sterling's predecessor in
26

27 ¹ See, Wade Declaration, Docket No. 49-1 (herein "Wade Declaration"), ¶4, Exhibit A.

28 ² Wade Declaration, ¶30.

1 interest.³ Thereafter, as the lease market precipitously deteriorated in the late spring 2009, due to
2 a lack of the availability of credit, leasing activity froze everywhere.

3 The Debtor also has attempted but has so far been unsuccessful in efforts to sell the
4 property. On May 1, 2009, the Debtor executed a six-month Listing Agreement with Greg
5 DeLong to sell the property. On October 7, 2009, the agreement was extended to December 1,
6 2009.⁴ Mr. DeLong implemented a plan to market the property including price, listing services
7 and strategies. Because of the depth and breadth of the economy's demise, particularly the frozen
8 commercial credit markets, sale efforts have not yet borne fruit. As an illustration, for all of 2009
9 through the filing of this case, there are only two reported sale closings of commercial office
10 properties in Palo Alto and a handful throughout Santa Clara County.

11 The Debtor believes that the core hurdle in leasing and/or selling the property has been
12 and continues to be the state of the economy. Labeled by many as the Great Recession, the
13 economy is in the worst contraction in 80 years. Unlike prior recessions, the current one literally
14 has frozen credit markets which, in turn, blocks business expansion and the concomitant job
15 growth and which froze the availability of financing for the commercial office building market.
16 The Debtor also understands that federal stimulus funding and intervention efforts to stabilize
17 financial institutions have begun to produce positive indicators that the economy has stabilized
18 and is reflecting ad hoc growth trends. Mr. DeLong has provided the Debtor with annual market
19 analysis reports indicating that absent additional government intervention to spur creation of jobs,
20 the consensus among analysts is that a recovery of conditions in the commercial office market
21 will take from 24 to 36 months.

22 Thus, the Debtor is seeking confirmation of a three year Plan. During the three years of
23 the Plan, the Debtor will continue its efforts to lease up and/or sell the property. Prospective
24 tenants will be offered below market lease rates to produce sufficient cash flow to service
25 portions, if not all, of the debt service to the senior lender. Also, the Debtor continues to offer the
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27 ³ Wade Declaration, ¶31.

28 ⁴ The Debtor has yet to seek authority to employ Mr. DeLong's brokerage because of questions
raised by interested persons concerning the possibility of employing a different real estate broker.

1 property for sale. Currently the only purchasing interest shown are speculators suggesting “fire
2 sale” prices below the value of secured debt.

3 I declare under penalty of perjury pursuant to the laws of the United States that the
4 foregoing is true and correct.

5 Executed this 3rd day of February 2010, at Palo Alto, California.

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7 /s/ Booker T. Wade
8 Booker T. Wade
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1 **CERTIFICATE OF SERVICE**

2 I am employed in the office of a member of the bar of this Court in the City and County of
3 San Francisco, at whose direction this service was made. I am over the age of 18 and not a party
4 to the within action. My business address is 425 California Street, Suite 1800, San Francisco,
5 California 94104.

6 On February 3, 2010, I caused to be served the document described as:

7 **DECLARATION OF BOOKER T. WADE IN REPLY TO OBJECTION TO**
8 **DISCLOSURE STATEMENT FILED BY STERLING SAVINGS BANK**

9 on the interested parties in this action by placing ☐ the original ☒ true copies thereof enclosed
10 in sealed envelopes addressed as follows ☐ SEE ATTACHED LIST:

11 ☒ **U.S. MAIL:** Service was accomplished by placing the document(s) listed above in a
12 sealed envelope with postage thereon fully prepaid, in the United States mail at San
13 Francisco, California, addressed as set forth below.

14 John Wesolowski
15 50 Fremont Street
16 P.O. Box 7880
17 San Francisco, CA 94120

18 ☒ **BY OVERNIGHT DELIVERY:** I deposited in a box or other facility regularly
19 maintained by FedEx, DHL, Overnite Express, an express service carrier, or delivered to a
20 courier or driver authorized by said express carrier to receive documents, the above named
21 document(s) at San Francisco, California, charges prepaid, marked for delivery on the
22 following business day.

23 The Honorable Arthur S. Weissbrodt
24 United States Courthouse, Room 3020
25 280 South First Street
26 San Jose, CA 95113-3099
27 **Attention: CHAMBERS COPIES**

28 ☒ **BY E-MAIL/NEF:** Service was accomplished through the Notice of Electronic Filing
("NEF") for parties and counsel who are registered ECF Users.

Office Of The United States Trustee
Email: USTPRegion17.SJ.ECF@usdoj.gov,
ltroxas@hotmail.com

Rachel K. Stevenson on behalf of Creditor
Sterling Savings Bank
Email: rnunes@abbeylaw.com

William J. Healy on behalf of Creditor Arlene
Stevens
Email: whealy@campeaulaw.com

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct. Executed on February 3, 2010, at San Francisco, California.

/s/ Mike Terry
Mike Terry